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20 UNITED STATES DISTRICT COURT

21 DISTRICT OF NEVADA

22 MATTHEW R. LINDNER, individually; as) CASE NO.: 2:10-cv-00051-LDG-VCF
surviving spouse and legal heir of ELSY)
23 LETICIA GRANADOS-MARTINEZ, deceased;)
as surviving parent and legal heir of CAMILA)
24 LYNETE LINDNER, a deceased minor; and as)
Guardian Ad Litem of PAULINA GRANADOS-)
25 MARTINEZ, a minor; FERNANDO)
26 GRANADOS-MAGALLON, individually and as)
surviving spouse and legal heir of REFUGIO)
27 LETICIA MARTINEZ COSIO,)
)
28 Plaintiffs,)

1 vs.)
 2)
 3 FORD MOTOR COMPANY, a Delaware)
 4 corporation; BERTHA MEZA d/b/a OROZCO)
 5 AUTO SALES; EVENFLO COMPANY, INC., a)
 6 Delaware corporation; BIG LOTS STORES,)
 7 INC., an Ohio corporation; DOES I through XX,)
 8 inclusive and ROE BUSINESS ENTITIES I)
 9 through XX, inclusive,)
 10 Defendants.)
 11)
 12)
 13)
 14)
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 16)
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PLAINTIFF'S OPPOSITION TO DEFENDANT EVENFLO COMPANY, INC.'s MOTION
IN LIMINE TO EXCLUDE EVIDENCE OF NHTSA
EASE OF USE RATINGS [Motion No. 7]

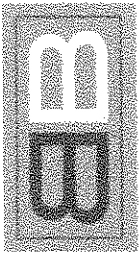
Plaintiff MATTEW R. LINDNER, Individually and as surviving spouse and legal heir of ELSY LETICIA GRANADOS-MARTINEZ, deceased; and as surviving parent and legal heir of CAMILA LYNETTE LINDNER, a deceased minor, through his attorneys, Joseph L. Benson, II of BENSON & BINGHAM, Larry W. Lawrence, Jr. of THE LAWRENCE LAW FIRM, and Ricardo A. Garcia of GARCIA, OCHOA MASK, LLP, hereby submits his Opposition to EVENFLO MOTOR COMPANY, INC.'s Motion in Limine to Exclude Evidence of NHTSA Ease of Use Ratings [Motion No. 7]. This opposition is made and based upon the Memorandum of Points and Authorities that follow below, the papers and pleadings on file herein, and any oral argument entertained by the Court.

DATED this 26 day of June, 2015.

BENSON & BINGHAM

/s/ Joseph L. Benson II
 JOSEPH L. BENSON II, ESQ.
 Nevada Bar No. 7276

Attorneys for Plaintiffs



MEMORANDUM OF POINTS AND AUTHORITIES

I.

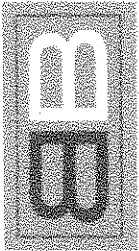
Defendants seek to bar Plaintiffs from using NHTSA's Ease of Use Ratings during trial. Plaintiffs agree with Defendants statement that installation and use of the subject seat by the various persons including Mr. Lindner who installed the subject base did so correctly, and that both sides agree that use of the system is not in contention. However, Plaintiffs argue the NHTSA's Ease of use is completely relevant to the subject car seat case and should be allowed by virtue of the Defendant's common expert theme that the "ease of use" is a primary factor for a manufacturer's consideration as use increases safety—the more use, the more overall safety (in theory). This "Ease of Use" rating is completely relevant as it confirms the ease of latching and unlatching and overall use of the system. NHTSA "4 star" rating is relevant to the subject action. (See Exhibit A-Ease of Use Rating for Embrace 35). Plaintiff is not in current possession of the Embrace Ease of Use Rating if different than the Embrace 35, but the primary operating functions of both models are essentially the same. Defendant plans on using the NHTSA guidelines as a defense for its max threshold testing, but yet do not want the government's critique on how easy it is to unlatch. Defendants can't have their cake and eat it too. Thus, the motion to exclude the "ease of use" guideline should be DENIED.

DATED this 26th day of June, 2015.

BENSON & BINGHAM

/s/ Joseph L. Benson II
JOSEPH L. BENSON II, ESQ.
Nevada Bar No. 7276

Attorneys for Plaintiffs



CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing PLAINTIFF'S OPPOSITION TO
EVENFLO MOTOR COMPANY, INC.'S MOTION IN LIMINE TO EXCLUDE
EVIDENCE OF NHTSA EASE OF USE RATINGS [MOTION NO. 7] was made this date by
electronic service to the following:

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DATED this 26 day of June, 2015.


An employee of BENSON & BINGHAM

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